IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 8601 of 1995

Between:

1. A.M.Ponuranga Mudliar, Bus Owner,

S/o.A.M.Mudalianda Modliar, aged about 64 years,

9-97, Raja Street, Venkatgiri Post, Nellore District, A.P.

2. A.P.Ranganayagi Ammal, Bus Owner,

W/o.A.M.Ponuranga Modliar, aged about 56 years,

146 T.P.Area, Tirupathi Chittoor District.

3. A.P.Gopi Krishna, Bus Owner,

S/o.A.M.Ponuranga Modlair, aged about 27 years,

146 T.P.Area, Tirupathi, Chittoor District.

4. K.Ramchandra Naidu, Bus Owner,

S/o.K.Monuswami Naidu, aged about 60 yuears,

12 & 13, Beri Street, Tirupathi, Chittoor District.

5. The Chittoor District Cooperative Motor Transport Society Limited,

Tirupathi, rep.by the General Manager Sri B.Venkatramana Reddy,

Aged about 67 years, Tirupathi Town, Chittoor District.

6. J.Malligha, Bus Owner, W/o.J.Jaykumar,

aged about 32 years, 146 T.P.Area,

Tirupathi, Chittoor District.

7. K.Narasimhulu Naidu, Bus Owner

S/o. Venkata Munuswamy Naidu, aged about 46 years,

Kannabiran Bus Service, Puttur Post, Chittoor District.

8. K.Venugopal Naidu, Bus Owner, S/o.Venkata Munuswamy Naidu,

aged 44 years, Kannabirand Motor Service, Puttur Post, Chittoor District.

9. K.Babu Naidu, Bus Owner, S/o.Venkatamunuswamy Naidu, aged 42 years,

Kannabiran Roadways, Puttur, Chittoor.

..... PETITIONERS

AND

1. The Commissioner of Prohibition and Excise,

Hyderabad, A.P.

2. The Dy.Commissioner of Prohibition and Excise, Anantapur.

3. The Superintendent of Prohibition and Excise, Chittoor.

4. The Inspector of Prohibition and Excise, Pallamaner at Pallamaner

Check Post.

5. The Inspector of Prohibition and Excise, Nellore.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of mandamus or any other writ, order or direction, declaring that the respondents or their subordinates have no power to seize and detain the stage carriage, buses of the petitioners or arresting the crew of their buses under the provisions of A.P.Prohibition Act, 1995 (Act No.17/1995) on the allegations that the passenger or passengers are found to be in possession and carrying liquor, liquor in contravention of the provisions of the said Act or other allegations connected thereto and consequently restrain the respondents and their subordinates from seizing and detaining the stage carriage buses of the petitioners.

Counsel for the Petitioner: MR.GULAM DASTA GHEER

Counsel for the Respondents: Government Pleader for Prohibition and Excise.

The Court made the following:

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ORDER:

It is submitted by the learned Government Pleader for Prohibition and Excise and admitted by the learned counsel for the petitioners that the subject-matter of the writ petition is squarely covered by the judgment of this Court in W.A. No. 513 of 1995 dated 16-5-1995, wherein the Division Bench of this Court,

while disposing of the said writ appeal, made the following directions:

a. That the appellants shall furnish an undertaking to the Prohibition and Excise Officials of the concerned District that they would produce the vehicle as and when required by the said officials for the purpose of giving effect to the order passed under the provisions of the A.P.Prohibition/Excise Act and that the appellants would not transfer the vehicles during the pendency of enquiry regarding confiscation;

b. That seizure of the stage carriage vehicles at the destination pending further proceedings for confiscation shall be made only if reasonable grounds that the liquor was being smuggled with the knowledge and/or connivance of the permit holder of the stage carriage and for reasons to be recorded in writing which are to be served on the operator;

c. If the appellants are aggrieved by the act of seizure or the order of confiscation that may be passed in accordance with law, it is open to the appellants question the same before this court and in such a case, it will be decided on case to case basis whether and subject to what conditions the particular stage carriage vehicle shall be released.

The order passed by us in these writ appeals read with the order passed by the learned single Judge in WPMP.No.11373 of 1995 and batch, will be the interim order in all similar cases governing the detention and seizure of the stage carriage vehicle and the arrest of the bus crew unless and until the other clauses in the order are varied on the appeal, if any, filed by the State. In other words, the Prohibition and Excise officials of the State will act in accordance with these interim orders without insisting upon similar orders being passed by this court in relation to other operators as well.

In the circumstances, following the said judgement and for the reasons mentioned therein, this writ petition is liable to be dismissed, and the same is accordingly dismissed. No costs

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N.V. RAMANA, J

Dated: 5-10-2004

LSK/KSR

To

1. The Commissioner of Prohibition and Excise,

Hyderabad, A.P.

2. The Dy.Commissioner of Prohibition and Excise, Anantapur.

3. The Superintendent of Prohibition and Excise, Chittoor.

4. The Inspector of Prohibition and Excise, Pallamaner at Pallamaner

Check Post.

5. The Inspector of Prohibition and Excise, Nellore.

6. Two C.Cs. to the Government Pleader for Prohibition and Excise,

High Court Buildings, Hyderabad. (OUT)

7. Two C.D. copies.